

UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA

September 2012 Grand Jury

**SA CR 12-0269**

UNITED STATES OF AMERICA,	)	SA CR No. 12-
	)	
Plaintiff,	)	<u>I N D I C T M E N T</u>
	)	
v.	)	[15 U.S.C. §§ 78j(b), 78ff;
	)	17 C.F.R. § 240.10b-5;
DOUGLAS V. DECINCES,	)	Securities Fraud (Insider
DAVID PARKER,	)	Trading); 15 U.S.C. §§ 78n(e),
F. SCOTT JACKSON, and	)	78ff; 17 C.F.R. § 240.14e-3(a):
ROGER WITTENBACH,	)	Tender Offer Fraud; 18 U.S.C.
	)	§ 1957: Transactional Money
Defendants.	)	Laundering; 18 U.S.C. § 2(b):
	)	Causing an Act to be Done]
	)	
	)	
	)	
	)	

The Grand Jury charges:

COUNTS ONE THROUGH THIRTEEN

[15 U.S.C. § 78j(b), 78ff; 17 C.F.R. § 240.10b-5;  
18 U.S.C. § 2(b)]

[Defendant DECINCES]

A. Abbott's Acquisition of EYE

1. At all times relevant to this Indictment, Advanced Medical Optics, Inc. ("EYE") was a medical device company based in Santa Ana, California. Shares of EYE common stock were

1 publicly traded on the New York Stock Exchange ("NYSE"), a  
2 national securities exchange, under the symbol "EYE."

3 2. In 2009, Abbott Laboratories ("Abbott") acquired EYE  
4 through a tender offer. The tender offer was publically  
5 announced on January 12, 2009.

6 B. The Source's Access To Inside Information Regarding Abbott's  
7 Acquisition of EYE

8 3. The Source ("Source") was an officer and director of  
9 EYE. Through his position at EYE, the Source learned of  
10 material, nonpublic information regarding Abbott's acquisition of  
11 EYE (the "Inside Information"), prior to any such information  
12 being released to the investing public or reported to the  
13 Securities and Exchange Commission ("SEC"). In particular:

14 a. On or about October 22, 2008, the Source obtained  
15 Inside Information at a dinner with Abbott's Chief Executive  
16 Officer ("CEO") in Costa Mesa, California.

17 b. On or about October 26, 2008, the Source obtained  
18 Inside Information at a meeting with Abbott personnel in Newport  
19 Beach, California.

20 c. On or about November 14, 2008, the Source obtained  
21 Inside Information at a meeting with Abbott's CEO in Costa Mesa,  
22 California..

23 d. On or about November 26, 2008, the Source obtained  
24 Inside Information when he was contacted by an Abbott  
25 representative who informed the Source that Abbott would be  
26 submitting a preliminary tender offer proposal to acquire EYE in  
27 the next few days.  
28

1 e. On or about December 1, 2008, the Source obtained  
2 Inside Information when he received Abbott's non-binding  
3 preliminary proposal offering to buy EYE's outstanding shares of  
4 common stock through a tender offer for the cash price range of  
5 \$21-\$23 per share.

6 f. On or about December 2, 2008, the Source obtained  
7 Inside Information when he attended a telephonic meeting of the  
8 EYE Board of Directors at which the EYE Board of Directors agreed  
9 to engage in a limited period of exclusive negotiations with  
10 Abbott to purchase EYE.

11 g. On or about December 15 and 16, 2008, the Source  
12 obtained Inside Information when he attended meetings with EYE's  
13 legal and financial advisors in Newport Beach, California.

14 h. On or about December 16, 2008, the Source obtained  
15 Inside Information when he met with an Abbott Senior Vice  
16 President in Costa Mesa, California, from approximately 6:00 p.m.  
17 to 9:00 p.m.

18 i. On or about December 21, 2008, the Source obtained  
19 Inside Information when he received a call from an Abbott  
20 representative who confirmed that, after completion of Abbott's  
21 preliminary legal and financial due diligence review of EYE,  
22 Abbott's proposed purchase price for EYE common stock remained in  
23 the range of \$21 to \$23 per share.

24 j. On or about December 28, 2008, the Source obtained  
25 Inside Information when he received a call from Abbott confirming  
26 that Abbott would be willing to propose a binding purchase price  
27 of \$21 per share of EYE common stock.

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1 k. On or about December 31, 2008, the Source obtained  
2 Inside Information when he and an Abbott Senior Vice President  
3 had a 35-minute telephone conversation.

4 l. On or about January 3, 2009, the Source obtained  
5 Inside Information when he and an Abbott Senior Vice President  
6 had an 84-minute telephone call that ended at 4:30 p.m.

7 m. On or about January 4, 2009, the Source obtained  
8 Inside Information when he attended a meeting of the EYE Board of  
9 Directors from approximately noon to 2:00 p.m.

10 4. As an officer and director of EYE, the Source owed a  
11 fiduciary duty of trust and confidence to EYE, and to the  
12 shareholders of EYE, not to use the Inside Information for  
13 personal benefit. As an officer and director of EYE, the Source  
14 was also subject to EYE's policies regarding the use and  
15 safekeeping of confidential information, which also prohibited  
16 the Source from using the Inside Information for personal  
17 benefit. As an officer and director of EYE involved in  
18 negotiations with Abbott regarding its acquisition of EYE, the  
19 Source executed a confidentiality agreement that required him to  
20 maintain the confidentiality of the Inside Information the Source  
21 received, not trade based upon on the Inside Information or use  
22 it for personal benefit, and not disclose the Inside Information  
23 to any third parties.

24 C. Defendant DECINCES' Receipt From the Source of Inside  
25 Information Regarding Abbott's Acquisition of EYE

26 5. Defendant DOUGLAS V. DECINCES ("DECINCES") was a close  
27 personal friend of the Source. In particular, defendant DECINCES  
28 and the Source were neighbors, were members of the same golf

1 club, and vacationed together. In addition, the Source arranged  
2 for EYE to co-sponsor an annual charity golf tournament with  
3 defendant DECINCES, had defendant DECINCES help him purchase a  
4 home, invested in a business operated by defendant DECINCES' son,  
5 and retained defendant DECINCES' daughter to provide decorating  
6 services.

7 6. On or about some or all of the following dates,  
8 defendant DECINCES and the Source had the following personal  
9 contacts, during some or all of which the Source, in advance of  
10 the public announcement of Abbott's tender offer for EYE, in  
11 violation of his fiduciary duties of trust and confidence to EYE  
12 and EYE's shareholders, and for personal benefit, provided Inside  
13 Information to defendant DECINCES:

14 a. On or about November 2, 2008, defendant DECINCES  
15 and the Source placed telephone calls to each other.

16 b. On or about November 24, 2008, defendant DECINCES  
17 and the Source attended an Anaheim Ducks hockey game together in  
18 Anaheim, California.

19 c. On or about November 30, 2008, defendant DECINCES  
20 and the Source placed telephone calls to each other.

21 d. On or about December 6, 2008, defendant DECINCES  
22 and the Source attended and were seated at the same table at the  
23 Annual Hoag Hospital Benefit Dinner at the Ritz Carlton in Laguna  
24 Niguel, California.

25 e. On or about December 16, 2008 at approximately  
26 9:12 p.m., the Source called defendant DECINCES' cellular phone  
27 and left a two-minute voice mail message.

1 f. On or about December 31, 2008, defendant DECINCES  
2 and the Source played golf at the country club at which both were  
3 members in Newport Beach, California.

4 g. On or about January 1, 2009, defendant DECINCES  
5 and the Source placed telephone calls to each other.

6 h. On or about January 3, 2009, at approximately  
7 4:37 p.m., the Source called defendant DECINCES.

8 i. On or about January 4, 2009 at approximately  
9 7:20 p.m., defendant DECINCES and the Source had dinner together  
10 at the country club at which both were members in Newport Beach,  
11 California.

12 D. Defendant DECINCES' Purchases Of EYE Stock Based on Inside  
13 Information Received From the Source

14 7. On or about November 5, 2008, November 26, 2008,  
15 December 1, 2008, and December 2, 2008, in advance of the public  
16 announcement of Abbott's acquisition of EYE, knowing that the  
17 Source's provision to defendant DECINCES of Inside Information  
18 violated the Source's fiduciary duties of trust and confidence to  
19 EYE and EYE's shareholders, and based on the Inside Information  
20 he had received from the Source, defendant DECINCES, through his  
21 Merrill Lynch broker, purchased a total of 15,000 shares of EYE  
22 common stock.

23 8. On or about December 8, 2008, defendant DECINCES  
24 provided his physical therapist with Inside Information defendant  
25 DECINCES had received from the Source, namely, that EYE was  
26 likely to be acquired by another company and that EYE's stock  
27 price would increase to approximately \$20 by the end of the year,  
28

1 and, based on this Inside Information, defendant DECINCES advised  
2 his physical therapist to buy EYE stock.

3 9. On or about December 8, 2008, after his physical  
4 therapy appointment, defendant DECINCES called his Merrill Lynch  
5 broker three times and left messages that defendant DECINCES  
6 needed to speak to the broker that day. Defendant DECINCES  
7 finally spoke to his Merrill Lynch broker after the market closed  
8 for approximately 15 minutes.

9 10. Between on or about December 9, 2008, and on or about  
10 December 12, 2008, defendant DECINCES liquidated his diverse  
11 stock portfolio at Merrill Lynch at a loss of approximately  
12 \$80,000 in order to net approximately \$160,000 that defendant  
13 DECINCES then used to fund additional purchases of EYE common  
14 stock based on Inside Information provided by the Source.

15 11. On or about December 12, 2008, December 15, 2008,  
16 December 17, 2008, December 18, 2008, January 2, 2009, and  
17 January 5, 2009, in advance of the public announcement of  
18 Abbott's acquisition of EYE, knowing that the Source's provision  
19 to defendant DECINCES of Inside Information violated the Source's  
20 fiduciary duties of trust and confidence to EYE and EYE's  
21 shareholders, and based on the Inside Information he had received  
22 from the Source, defendant DECINCES, through his Merrill Lynch  
23 broker, his PMB broker, a personal brokerage account at Credit  
24 Suisse, and four brokerage accounts set up for his grandchildren  
25 at Credit Suisse, purchased a total of 75,700 shares of EYE  
26 common stock.

27 12. On or about January 5, 2009, to further encourage his  
28 physical therapist to buy EYE stock, defendant DECINCES provided

1 his physical therapist with Inside Information defendant DECINCES  
2 had received from the Source, namely, that the acquisition of EYE  
3 would occur in approximately one week.

4 13. On or about January 12, 2009, after the public  
5 announcement of Abbott's acquisition of EYE, which resulted in  
6 EYE's stock price increasing approximately 143 percent, defendant  
7 DECINCES sold all his shares of EYE common stock, including those  
8 purchased in the brokerage accounts set up for his grandchildren  
9 at Credit Suisse, for a profit of approximately \$1.3 million.

10 E. Defendant DECINCES' Securities Fraud Violations

11 14. On or about the dates set forth below, in the  
12 Central District of California and elsewhere, defendant DECINCES  
13 knowingly, unlawfully, and willfully, directly and indirectly, by  
14 the use of the means and instrumentalities of interstate  
15 commerce, the mails, and the facilities of national securities  
16 exchanges, in connection with the purchase and sale of  
17 securities, used and employed manipulative and deceptive devices  
18 and contrivances, in violation of Title 17, Code of Federal  
19 Regulations, Section 240.10b-5, by (a) employing devices,  
20 schemes, and artifices to defraud; (b) making untrue statements  
21 of material facts and omitting to state material facts necessary  
22 in order to make the statements made, in light of the  
23 circumstances under which they were made, not misleading; and (c)  
24 engaging in acts, practices, and courses of business which  
25 operated and would operate as a fraud and deceit upon the  
26 purchasers and sellers of EYE common stock and the investing  
27 public, namely, defendant DECINCES, while in possession of  
28 material information relating to EYE common stock, which



information defendant DECINCES knew was nonpublic and had been obtained and provided to him by the Source in violation of a duty of trust and confidence owed by the Source to EYE and EYE's shareholders, made and caused to be made the following purchases of EYE common stock, without first publicly disclosing such information and its source, and without such information and its source having been publicly disclosed by press release and otherwise within a reasonable time prior to such purchase and sale, as specified in each count below:

COUNT	DATE	SECURITIES TRANSACTION
ONE	11/5/2008	Purchase of 3,500 shares of EYE common stock
TWO	11/26/2008	Purchase of 3,500 shares of EYE common stock
THREE	12/1/2008	Purchase of 3,000 shares of EYE common stock
FOUR	12/2/2008	Purchase of 5,000 shares of EYE common stock
FIVE	12/12/2008	Purchase of 4,000 shares of EYE common stock
SIX	12/15/2008	Purchase of 14,000 shares of EYE common stock
SEVEN	12/17/2008	Purchase of 8,000 shares of EYE common stock
EIGHT	12/17/2008	Purchase of 10,000 shares of EYE common stock
NINE	12/18/2008	Purchase of 3,000 shares of EYE common stock
TEN	1/2/2009	Purchase of 1,200 shares of EYE common stock
ELEVEN	1/2/2009	Purchase of 12,500 shares of EYE common stock
TWELVE	1/5/2009	Purchase of 8,000 shares of EYE common stock

1	THIRTEEN	1/5/2009	Purchase of 15,000 shares of EYE
2			common stock

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COUNTS FOURTEEN THROUGH TWENTY-SIX

[15 U.S.C. §§ 78n(e) and 78ff; 17 C.F.R. § 240.14e-3(a);  
18 U.S.C. § 2(b)]

[Defendant DECINCES]

15. The Grand Jury hereby incorporates by reference and re-alleges paragraphs 1 through 13 of this Indictment as though fully set forth herein.

16. On or about the dates set forth below, in the Central District of California, and elsewhere, defendant DECINCES knowingly, unlawfully, and willfully engaged in fraudulent, deceptive, and manipulative acts and practices in connection with a tender offer, namely, after Abbott had taken substantial steps to commence a tender offer for EYE common stock, defendant DECINCES, while in possession of material information relating to such tender offer, which information defendant DECINCES knew was nonpublic and had been acquired directly and indirectly from the offering person, and from an officer, director, and employee and other person acting on behalf of the offering person, made and caused to be made the following purchases of EYE common stock without first publicly disclosing such information and its source, and without such information and its source having been publicly disclosed by press release and otherwise within a reasonable time prior to such purchase and sale, as specified in each count below:

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COUNT	DATE	SECURITIES TRANSACTION
FOURTEEN	11/5/2008	Purchase of 3,500 shares of EYE common stock
FIFTEEN	11/26/2008	Purchase of 3,500 shares of EYE common stock
SIXTEEN	12/1/2008	Purchase of 3,000 shares of EYE common stock
SEVENTEEN	12/2/2008	Purchase of 5,000 shares of EYE common stock
EIGHTEEN	12/12/2008	Purchase of 4,000 shares of EYE common stock
NINETEEN	12/15/2008	Purchase of 14,000 shares of EYE common stock
TWENTY	12/17/2008	Purchase of 8,000 shares of EYE common stock
TWENTY-ONE	12/17/2008	Purchase of 10,000 shares of EYE common stock
TWENTY-TWO	12/18/2008	Purchase of 3,000 shares of EYE common stock
TWENTY-THREE	1/2/2009	Purchase of 1,200 shares of EYE common stock
TWENTY-FOUR	1/2/2009	Purchase of 12,500 shares of EYE common stock
TWENTY-FIVE	1/5/2009	Purchase of 8,000 shares of EYE common stock
TWENTY-SIX	1/5/2009	Purchase of 15,000 shares of EYE common stock

## COUNTS TWENTY-SEVEN THROUGH THIRTY-FOUR

[15 U.S.C. § 78j(b), 78ff; 17 C.F.R. § 240.10b-5;  
18 U.S.C. § 2(b)]

[Defendants DECINCES, PARKER, WITTENBACH, and JACKSON]

17. The Grand Jury hereby incorporates by reference and re-alleges paragraphs 1 through 13 of this Indictment as though fully set forth herein.

A. Defendants PARKER, WITTENBACH, and JACKSON, and Their Relationship to Defendant DECINCES

18. Defendant DAVID PARKER ("PARKER") was a friend and business partner of defendant DECINCES. Defendant PARKER knew that defendant DECINCES and the Source were friends.

19. Defendants F. SCOTT JACKSON and ROGER WITTENBACH were friends of defendant DECINCES and were aware that defendant DECINCES knew the Source.

20. Defendant DECINCES had previously provided defendants PARKER, WITTENBACH, and JACKSON with recommendations for investments that had gone bad. Due to their friendship and to make up for these prior bad investment recommendations, defendant DECINCES provided defendants PARKER, WITTENBACH, and JACKSON with Inside Information defendant DECINCES had received from the Source.

B. Defendant PARKER's Purchases of EYE Stock Based on Inside Information

21. On or about January 5, 2009, in a telephone call, defendant DECINCES communicated to defendant PARKER Inside Information that defendant DECINCES had received from the Source.

22. On or about January 6, 2009, in advance of the public announcement of Abbott's acquisition of EYE, knowing that the

1 Inside Information he had received from defendant DECINCES had  
2 been provided to defendant DECINCES by the Source, knowing that  
3 the Source's provision to defendant DECINCES of Inside  
4 Information violated the Source's fiduciary duties of trust and  
5 confidence to EYE and EYE's shareholders, and based on the Inside  
6 Information provided by defendant DECINCES, defendant PARKER,  
7 purchased a total of 15,000 shares of EYE common stock.

8 23. On or about January 8, 2009, in advance of the public  
9 announcement of Abbott's acquisition of EYE, knowing that the  
10 Inside Information he had received from defendant DECINCES had  
11 been provided to defendant DECINCES by the Source, knowing that  
12 the Source's provision to defendant DECINCES of Inside  
13 Information violated the Source's fiduciary duties of trust and  
14 confidence to EYE and EYE's shareholders, and based on the Inside  
15 Information provided by defendant DECINCES, defendant PARKER  
16 wired \$100,000 into the brokerage account through which he had  
17 recently purchased EYE stock and used that money to purchase an  
18 additional 10,000 shares of EYE common stock.

19 24. On or about January 12, 2009, after the public  
20 announcement of Abbott's acquisition of EYE, defendant PARKER  
21 sold all his shares of EYE common stock for a profit of  
22 approximately \$347,920.

23 C. Defendant WITTENBACH's Purchases of EYE Stock Based on  
24 Inside Information

25 25. On or about January 7, 2009, in a telephone call,  
26 defendant DECINCES communicated to defendant WITTENBACH Inside  
27 Information that defendant DECINCES had received from the Source.  
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1        26. On or about January 8, 2009, in advance of the public  
2 announcement of Abbott's acquisition of EYE, knowing that the  
3 Inside Information he had received from defendant DECINCES had  
4 been provided to defendant DECINCES by the Source, knowing that  
5 the Source's provision to defendant DECINCES of Inside  
6 Information violated the Source's fiduciary duties of trust and  
7 confidence to EYE and EYE's shareholders, and based on the Inside  
8 Information provided by defendant DECINCES, defendant WITTENBACH  
9 purchased 15,000 shares of EYE common stock and caused his sister  
10 to purchase 1,000 shares of EYE common stock.

11        27. On or about January 12, 2009, after the public  
12 announcement of Abbott's acquisition of EYE, defendant WITTENBACH  
13 sold all his shares of EYE for a profit of approximately  
14 \$201,692. That same day, defendant WITTENBACH's sister sold her  
15 EYE shares for a profit of approximately \$13,214.

16 D. Defendant JACKSON's Purchases of EYE Stock Based on Inside  
17 Information

18        28. On or about January 8, 2009, during a breakfast meeting  
19 in Costa Mesa, California, defendant DECINCES communicated to  
20 defendant JACKSON Inside Information that defendant DECINCES had  
21 received from the Source.

22        29. On or about January 8, 2009, during the breakfast  
23 meeting with defendant DECINCES, in advance of the public  
24 announcement of Abbott's acquisition of EYE, knowing that the  
25 Inside Information he had received from defendant DECINCES had  
26 been provided to defendant DECINCES by the Source, knowing that  
27 the Source's provision to defendant DECINCES of Inside  
28 Information violated the Source's fiduciary duties of trust and

1 confidence to EYE and EYE's shareholders, and based on the Inside  
2 Information provided by defendant DECINCES, defendant JACKSON  
3 used his hand-held mobile device to buy 8,500 shares of EYE  
4 common stock. Later that day, defendant JACKSON bought an  
5 additional 1,700 shares of EYE common stock. On or about  
6 January 9, 2009, defendant JACKSON bought an additional 800  
7 shares of EYE common stock based on Inside Information  
8 communicated to him by defendant DECINCES.

9 30. On or about January 12, 2009, after there was a public  
10 announcement of Abbott's acquisition of EYE, defendant JACKSON  
11 sold all his shares of EYE for a profit of approximately  
12 \$140,259.

13 E. Securities Fraud Violations

14 31. On or about the dates set forth below, in the  
15 Central District of California and elsewhere, the following  
16 defendants, aiding and abetting each other, knowingly,  
17 unlawfully, and willfully, directly and indirectly, by the use of  
18 the means and instrumentalities of interstate commerce, the  
19 mails, and the facilities of national securities exchanges, in  
20 connection with the purchase and sale of securities, used and  
21 employed manipulative and deceptive devices and contrivances, in  
22 violation of Title 17, Code of Federal Regulations, Section  
23 240.10b-5, by (a) employing devices, schemes, and artifices to  
24 defraud; (b) making untrue statements of material facts and  
25 omitting to state material facts necessary in order to make the  
26 statements made, in light of the circumstances under which they  
27 were made, not misleading; and (c) engaging in acts, practices,  
28 and courses of business which operated and would operate as a



1 fraud and deceit upon the purchasers and sellers of EYE common  
 2 stock and the investing public, namely, while in possession of  
 3 material information relating to EYE common stock, which  
 4 information the defendants knew was nonpublic and had been  
 5 obtained and provided by the Source in violation of a duty of  
 6 trust and confidence owed by the Source to EYE and EYE's  
 7 shareholders, made and caused to be made the following purchases  
 8 of EYE common stock, without first publicly disclosing such  
 9 information and its source, and without such information and its  
 10 source having been publicly disclosed by press release and  
 11 otherwise within a reasonable time prior to such purchase and  
 12 sale, as specified in each count below:

COUNT	DATE	DEFENDANTS	SECURITIES TRANSACTION
TWENTY-SEVEN	1/6/2009	DECINCES, PARKER	Purchase of 6,000 shares of EYE common stock
TWENTY-EIGHT	1/6/2009	DECINCES, PARKER	Purchase of 9,000 shares of EYE common stock
TWENTY-NINE	1/8/2009	DECINCES, PARKER	Purchase of 10,000 shares of EYE common stock
THIRTY	1/8/2009	DECINCES, WITTENBACH	Purchase of 15,000 shares of EYE common stock
THIRTY-ONE	1/8/2009	DECINCES, WITTENBACH	Purchase of 1,000 shares of EYE common stock
THIRTY-TWO	1/8/2009	DECINCES, JACKSON	Purchase of 8,500 shares of EYE common stock
THIRTY-THREE	1/8/2009	DECINCES, JACKSON	Purchase of 1,700 shares of EYE common stock
THIRTY-FOUR	1/9/2009	DECINCES, JACKSON	Purchase of 800 shares of EYE common stock

COUNTS THIRTY-FIVE THROUGH FORTY-TWO

[15 U.S.C. §§ 78n(e) and 78ff; 17 C.F.R. § 240.14e-3(a);  
18 U.S.C. § 2(b)]

[Defendants DECINCES, PARKER, WITTENBACH, and JACKSON]

32. The Grand Jury hereby incorporates by reference and re-alleges paragraphs 1 through 13 and 18 through 30 of this Indictment as though fully set forth herein.

33. On or about the dates set forth below, in the Central District of California, and elsewhere, the following defendants knowingly, unlawfully, and willfully engaged in fraudulent, deceptive, and manipulative acts and practices in connection with a tender offer, namely, after Abbott had taken substantial steps to commence a tender offer for EYE common stock, while in possession of material information relating to such tender offer, which information the defendants knew was nonpublic and had been acquired directly and indirectly from the offering person, and from an officer, director, and employee and other person acting on behalf of the offering person, made and caused to be made the following purchases of EYE common stock without first publicly disclosing such information and its source, and without such information and its source having been publicly disclosed by press release and otherwise within a reasonable time prior to such purchase and sale, as specified in each count below:

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COUNT	DATE	DEFENDANTS	SECURITIES TRANSACTION
THIRTY-FIVE	1/6/2009	DECINCES, PARKER	Purchase of 6,000 shares of EYE common stock
THIRTY-SIX	1/6/2009	DECINCES, PARKER	Purchase of 9,000 shares of EYE common stock
THIRTY-SEVEN	1/8/2009	DECINCES, PARKER	Purchase of 10,000 shares of EYE common stock
THIRTY-EIGHT	1/8/2009	DECINCES, WITTENBACH	Purchase of 15,000 shares of EYE common stock
THIRTY-NINE	1/8/2009	DECINCES, WITTENBACH	Purchase of 1,000 shares of EYE common stock
FORTY	1/8/2009	DECINCES, JACKSON	Purchase of 8,500 shares of EYE common stock
FORTY-ONE	1/8/2009	DECINCES, JACKSON	Purchase of 1,700 shares of EYE common stock
FORTY-TWO	1/9/2009	DECINCES, JACKSON	Purchase of 800 shares of EYE common stock

COUNT FORTY-THREE

[18 U.S.C. § 1957]

[Defendant PARKER]

34. The Grand Jury hereby incorporates by reference and re-alleges paragraphs 1 through 13 and 18 through 30 of this Indictment as though fully set forth herein.

35. On or about January 21, 2009, in the Central District of California, and elsewhere, defendant PARKER knowingly engaged in a monetary transaction, affecting interstate commerce, in criminally derived property of a value greater than \$10,000, by writing a Merrill Lynch check (No. 269) in the amount of \$212,500 from a Merrill Lynch brokerage account (XXXX2150) payable to Yodigity Ventures, LLC, such property having been derived from a specified unlawful activity, namely, securities fraud, in violation of Title 15, United States Code, Sections 78j(b) and 77ff, and Title 17, Code of Federal Regulations, Section 240.14e-3(a).

COUNT FORTY-FOUR

[18 U.S.C. § 1957]

[Defendant DECINCES]

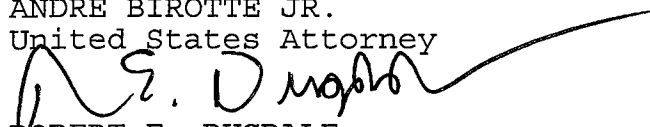
36. The Grand Jury hereby incorporates by reference and re-alleges paragraphs 1 through 13 and 18 through 30 of this Indictment as though fully set forth herein.

37. On or about January 26, 2009, in the Central District of California, and elsewhere, defendant DECINCES knowingly engaged in a monetary transaction, affecting interstate commerce, in criminally derived property of a value greater than \$10,000, by initiating a wire transfer from a PMB brokerage account (XX7014) in the amount of \$25,000 into Vision Motor Corporation, such property having been derived from a specified unlawful activity, namely, securities fraud, in violation of Title 15, United States Code, Sections 78j(b) and 77ff, and Title 17, Code of Federal Regulations, Section 240.14e-3(a).

A TRUE BILL

\_\_\_\_\_  
Foreperson

ANDRÉ BIROTTE JR.  
United States Attorney

  
ROBERT E. DUGDALE  
Assistant United States Attorney  
Chief, Criminal Division

DENNISE D. WILLETT  
Assistant United States Attorney  
Chief, Santa Ana Branch Office

JENNIFER L. WAIER & IVY A. WANG  
Assistant United States Attorneys  
Santa Ana Branch Office